IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
ORIGINAL JURISDICTION

Dated: Nainital: the 5th day of October 2005
Bail application no. 961 **of 2005**
Order on the bail application of accused

CRIMINAL SIDE

Jai Prakash @ Munna
S/o Kalu
R/o Village Jaurasi
P.S. Kotwali Roorkee
District Haridwar .....Applicant

Versus

State of Uttaranchal .....Opposite Party

Arising out of Case Crime No. 123 of 2005
Under Sections 302, 307 I.P.C.
P.S. Kotwali Roorkee
District Haridwar

By the court

Hon'ble B.C. Kandpal, J.

The applicant has applied for bail in case crime No. 123 of 2005 under Sections 302 and 307 of I.P.C., Police Station Kotwali Roorkee, District Haridwar.

Heard Sri Navneet Kaushik, learned counsel for the applicant, Ms. Jyotsana, learned counsel for the complainant, learned A.G.A. and perused the record.

As per the First Information Report, the applicant along with other co-accused Inder, Surendra and Subhash were armed with licenced gun, country made pistol and Tabal and they assaulted at the complainant side with their arms with the result Suresh died at the spot and Yeshpal, Rajendra and Deepak sustained injured on their persons.

The postmortem report of the deceased Suresh shows that he sustained only one gunshot injury/wound on his person while the injury report of other injured persons shows that none of the persons had sustained the injuries by firearm. The injured in their statements under Section 161 Cr.P.C. have also stated that it was the applicant Surender–co-accused Inder and Surendra who

who were armed with gun and they fired at the complainant side with their gun while Subhash was armed with Tabal and he assaulted the complainant side with Tabal.

At this stage, on the basis of the evidence collected by the Investigating Officer, it is not clear that which of the accused is responsible for causing the death of the deceased.

Inder (non-applicant) has also averred in the bail application that there is a cross version from the side of the accused/applicant and Inder (non-applicant) also sustained injuries during the course of the incident as he was medically examined on the same day and his three ribs were found fractured.

Keeping in view the medical examination report of the injured persons as well as postmortem report of the deceased and the medical examination report of the accused Inder, I find it is a fit case for bail at this stage.

Let the applicant Jai Prakash be released on bail on his executing a personal bond and furnishing two sureties each in the like amount to the satisfaction of C.J.M. concerned.

(B.C. Kandpal, J.)

05.10.2005
ASWAL